



PATENT  
HMD2000-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Thomas N. Giaccherini, et al.

Examiner: Ly, Anh Vu H.

Serial No.: 09/579,324

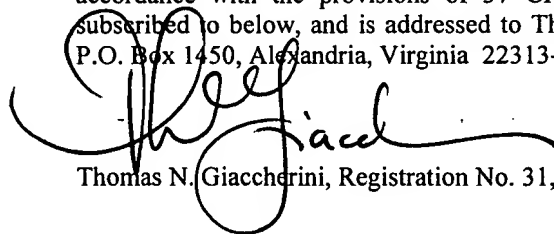
Group Art Unit: 2667

Title: **Method for Utilizing  
Excess Communications Capacity**

Filed: 25 May 2000

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

The undersigned hereby certifies that this document is being transmitted to the United States Patent Office by U.S.P.S. First Class Mail in accordance with the provisions of 37 CFR Section 1.8 on the date subscribed to below, and is addressed to The Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

  
Thomas N. Giaccherini, Registration No. 31,075

26 Dec 2007  
Date

**AMENDMENT**

The Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

The Applicants submit this Amendment in response to a Non-Final Office Action dated 26 June 2007. This Office Action provided a shortened statutory period for response, which expired on 26 September 2004. This Amendment is accompanied by a Petition for a Three Month Extension of Time, which will extend the period for response until 26 December 2007.

### **PROTEST**

The Applicants are submitting this Amendment under protest. The Applicants submitted an Appeal Brief on 20 February 2007.

Under 35 U.S.C. Section 134, the Applicants are entitled to a hearing before the Board of Patent Appeals and Interferences:

“An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences.”

In the Office Action dated 26 June 2007, the Examiner re-opened prosecution based only on U.S. Patent Application No. US 2001/001 4206–Artigalas. This newly cited document no more relevant than any of the other documents cited during the seven-year prosecution of the Applicants’ Claims, and appears to have been cited simply to prevent the Applicants from having a hearing before the Patent Board of Appeals and Interferences.

The Applicants hereby protest this abuse of the Patent Laws and Rules, and hereby request the Examiner to withdraw the Office Action dated 26 June 2007, and to return this Application to the Board of Appeals.

By submitting this Amendment, the Applicants do not waive any rights to raise objections, submit Petitions to the Commissioner or otherwise contend the Examiner’s refusal to allow the Board of Appeals to review the Claims in the Present Patent Application.